

TWIN FALLS, TUESDAY, AUGUST 28, 2012 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**FIRST FEDERAL SAVINGS BANK OF)
TWIN FALLS,)**

Plaintiff-Counterdefendant-Appellant,)

v.)

**RIEDESEL ENGINEERING, INC., an Idaho)
corporation,)**

Counterclaimant-Respondent,)

and)

**PAGE ENTERPRISES, INC.; TITAN)
COMMERCIAL CONTRACTORS, INC., as)
successor by merger to PAGE)
ENTERPRISES, INC.,)**

Defendants.)

**RIEDESEL ENGINEERING, INC., an Idaho)
corporation,)**

Crossclaimant,)

and)

**PAGE ENTERPRISES, INC.; TITAN)
COMMERCIAL CONTRACTORS, INC., as)
successor by merger to PAGE)
ENTERPRISES, INC.,)**

Crossdefendants.)

**RIEDESEL ENGINEERING, INC., an Idaho)
corporation,)**

Third Party Plaintiff,)

v.)

Docket No. 38407

)
DALLAS PAGE, individually and as)
managing member of ANASAZI)
CONSTRUCTION, LLC; JOHN AND JANE)
DOES I-X; and XYZ CORPORATIONS, I-)
XV,)

)
Third Party Defendants.)
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Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Holden, Kidwell, Hahn & Crapo, PLLC, Idaho Falls, for appellant.

Worst, Fitzgerald & Stover, PLLC, Twin Falls, for respondents.

Since 2007, First Federal Savings Bank and Riedesel Engineering have each owned encumbrances against a development property located in Twin Falls. First Federal holds two mortgages against the property and Riedesel holds a mechanic's lien. Riedesel's lien has an earlier priority date than First Federal's mortgages. However, Riedesel's lien claim does not contain a statement by the notary public that Riedesel's agent made the claim under oath.

In 2008 the developer of the property went bankrupt. As a result, First Federal and Riedesel are now contesting the priority of each other's encumbrances. Initially, First Federal did not dispute the validity of Riedesel's lien. Its counsel stated during the early stages of litigation that, "We think it is a valid lien." Subsequently, First Federal obtained new counsel who requested that it be allowed to withdraw the statements of its previous counsel. First Federal wanted to challenge the validity of Riedesel's lien because the lien claim was not made under oath.

The district court denied First Federal's request to withdraw the statements of its previous counsel. The court then held that First Federal waived any and all arguments regarding the validity of Riedesel's lien. As such, the district court found that Riedesel's lien was superior to First Federal's mortgage.

Upon appeal, First Federal argues that the district court erred by refusing to allow First Federal to withdraw the statements made by its previous counsel. First Federal also argues that Riedesel's lien is invalid since the lien claim does not state that Riedesel's agent made the claim under oath.

TWIN FALLS, TUESDAY, AUGUST 28, 2012 AT 10:00 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

IN THE MATTER OF THE PETITION)	
FOR DELIVERY CALL OF A&B)	
IRRIGATION DISTRICT FOR THE)	
DELIVERY OF GROUND WATER AND)	
FOR THE CREATION OF A GROUND)	
WATER MANAGEMENT AREA.)	
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)	
A&B IRRIGATION DISTRICT,)	
)	
Petitioner-Appellant,)	
)	
v.)	Docket No. 39196
)	
IDAHO DEPARTMENT OF WATER)	
RESOURCES and GARY SPACKMAN, in)	
his official capacity of Interim Director of)	
the IDAHO DEPARTMENT OF WATER)	
RESOURCES,)	
)	
Respondents,)	
)	
and)	
)	
CITY OF POCA TELLO and IDAHO)	
GROUND WATER APPROPRIATORS,)	
INC.,)	
)	
Intervenors-Respondents.)	
_____)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Minidoka County. Hon. Eric J. Wildman, District Judge.

John K. Simpson, Travis L. Thompson, Paul L. Arrington, Scott A. Magnuson, Barker Rosholt & Simpson LLP, Twin Falls, for Appellant.

Garrick Baxter, Chris M. Bromley, Deputy Attorneys General, Idaho Department of Water Resources, Boise, for respondents.

Appellant A&B Irrigation District appeals the decision of the district court dismissing A&B's petition for review of a final order by the Idaho Department of Water Resources. At issue is the meaning of the term "dispose of" in Idaho Code section 67-5246(4).

On May 11, 2011, A&B Irrigation district filed a petition for review of a Department final order. Twenty-one days later, the Department issued an order granting the petition for the sole purpose of allowing further time to make a determination. On June 30, 2011, the Department issued an amended order dealing with the merits of the petition. The Department argues that the initial order "dispose[d] of" the petition for the purposes of Idaho Code section 67-5246(4), which requires that state agencies "dispose of" petitions for review within twenty-one days. A&B asserts that "dispose of" requires a final determination on the merits, and that, since the amended order was issued more than twenty-one days after its petition for review was filed, the original final order is the only order from which judicial review may be taken.

TWIN FALLS, TUESDAY, AUGUST 28, 2012 AT 11:10 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

SUSAN CHRISTINE VIERSTRA,

Plaintiff-Appellant,

v.

MICHAEL GEORGE VIERSTRA,

Defendant-Respondent.

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Docket No. 39005

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County, Hon. Michael R. Crabtree, District Judge; Hon. Howard Smyser, Magistrate Judge.

Wright Brothers Law Office, PLLC, Twin Falls, for appellant.

Bevis, Thiry & Schindele, PA, Boise, for respondent.

This appeal arises from litigation between Susan and Michael Vierstra over the valuation of property in their divorce decree. After a trial, the magistrate court entered a judgment and divorce decree that contained findings of fact regarding the expected 2009 tax liability of the Vierstras' dairy farm for purposes of the valuation of the dairy as community property. Susan filed an objection contesting the form and language of the judgment and a motion asking the court to reconsider its finding of the dairy's tax liability in relation to the actual 2009 taxes due. The court held a post-trial hearing after the dairy filed its 2009 taxes and subsequently issued an order declining to adjust the valuation of the tax liability in the divorce decree. The magistrate court also entered an amended judgment in response to Susan's objection to the original judgment.

Susan appealed from both the magistrate court's order and the amended judgment, contesting the finding regarding the income tax liability for 2009 and the court's failure to adjust the property division based on the actual 2009 tax returns. The district court dismissed Susan's appeal from the amended judgment as untimely and found that the magistrate court lacked jurisdiction to hold the post-trial hearing and enter the subsequent order. Susan timely appeals and asks this Court to reverse the district court and remand with instructions to enter an order requiring the magistrate court to adjust the division of property in accordance with the actual tax liability.

TWIN FALLS, TUESDAY, AUGUST 28, 2012 AT 2:00 P.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**IN THE MATTER OF THE NOTICE OF)
PROPOSED PRE-FILING ORDER AND)
PROPOSED ORDER RE: JOHN N. BACH)**

JOHN N. BACH,

A potential vexatious litigant

Docket No. 40042

On June 15, 2012, the Idaho Supreme Court issued a Notice of Proposed Order with Proposed Prefiling Order attached in which the Court proposed to prohibit John N. Bach from instituting any new litigation in any Idaho state court *pro se* without first obtaining leave from a judge of the court where the litigation is proposed to be filed. The Proposed Prefiling Order is to be supported by several Proposed Findings of this Court including: Bach having persistently filed litigation and motions to harass and maliciously injure Idaho citizens with frivolous litigation; Bach having appeared unsuccessfully as the appellant before the Idaho Supreme Court in at least 15 civil actions, and having been ruled frivolous and unintelligible 6 times; and Bach having been involved, within the last 15 years, in at least 18 civil actions in various counties.

John N. Bach was allowed fourteen days to file a written Response to the Court's Proposed Pre-Filing Order and Findings. On July 2, 2012, John N. Bach filed with the Supreme Court a document entitled, "John N. Bach Requests a Full Adequate and Timely Notice of Factual and Evidentiary Hearing." The Court denied the request for an evidentiary hearing, but set a hearing on the Proposed Prefiling Order pursuant to Rule 59(g) of the Idaho Court Administrative Rules.